THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 16259 OF 1999

DATED: 13-06-2007

Between :

S.Sidda Reddy

… Petitioner

And

The Commissioner of Land Revenue,
Government of Andhra Pradesh,
Nampally, Hyderabad and 3 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16259 OF 1999

ORDER :

The petitioner claims to have been in possession and enjoyment of Ac.0.03 cents of land situated in Sy.No.1620/4A2 of East Gudur Town since 1961. The Revenue Divisional Officer, Gudur by order dated 28-06-1997 passed an order of eviction in respect of the land in question in exercise of powers under Land Encroachment Act. The said order was challenged by filing W.P.No.7018 of 1982 which was disposed of by this Court by order dated 06-07-1987 with a direction to the petitioner to approach the Collector, Nellore. The Sub-Collector, Gudur by order dated

22-07-1993 ordered that the petitioner is liable to be evicted from the excess site encroached upon. Aggrieved by the same, the petitioner filed W.P.No.10782 of 1993, which was disposed of with a direction to the Sub-Collector to dispose of the matter afresh. Thereafter, the Revenue Divisional Officer passed the order dated 28-06-1997 rejecting the petitioner's claim and directing the Mandal Revenue Officer to recover the possession. Aggrieved by the said order, the petitioner preferred an appeal before the Joint Collector, which was also dismissed by order dated 07-05-1998 holding that there is no necessity to grant additional site to the petitioner and that G.O.Ms.No.508 dated 20-10-1995, which provides for regularization does not apply to his case since the land is classified as tank poramboke. Questioning the same, the

petitioner preferred a revision petition before the Commissioner of Land Revenue-the first respondent herein. The said revision petition was dismissed by order dated
15-03-1999, which is under challenged in this writ petition.

Though various grounds have been raised on merits, it is primarily contended by the petitioner that since the impugned order was passed without hearing the petitioner, the same being in violation of principles of natural justice is liable to be set aside on that ground alone.

It is specifically pleaded in the affidavit filed in support of the writ petition that no notice was served on his counsel informing the date of hearing and consequently he could not be present before the first respondent.

It is also clear from the impugned order that the petitioner was not present on the date of hearing and therefore, the order was passed on the basis of the material available on record.

No counter affidavit is filed by the respondents contradicting the said plea.

It is also relevant to note that the operation of the impugned order was stayed by this Court on 02-08-1999 which has been in operation all through.

In the circumstances, I deem it appropriate to afford an opportunity of hearing to the petitioner. Accordingly, the impugned order dated 15-03-1999 is set aside and the writ petition is disposed of with a direction to the first respondent to pass appropriate orders afresh after due notice to all the parties concerned. No costs.

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G. ROHINI, J.

Date 13-06-2007
KLP